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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,804	01/23/2004	Carl Edward Heinlein	60130-2009; 02MRA0265	5004

26096 7590 09/29/2004

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EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
3683	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/763,804

Applicant(s)

HEINLEIN, CARL EDWARD

Examiner

Devon C Kramer

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/27/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1) The information disclosure statement filed 8/27/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has only partially been considered. Applicant needs to submit a copy of the European documents for it to be considered.

### ***Drawings***

2) The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 34. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4) Claims 1-7 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Halasy-Wimmer et al (5829557).

In re claims 1 and 11-12, Halasy-Wimmer et al provides a force transmission device for a disc brake comprising: a first end (14) engageable with a thrust member, and a second end (24) engageable with a friction element (4), wherein the force transmission device is operable along a first axis to move the friction element into engagement with a rotary brake disc in response to a loading from the thrust member, and wherein the force transmission device is restrained proximate the first end from movement transverse to the first axis and the force transmission device is unguided proximate the second end. Please note that there is nothing but the bellows attached to the second end and therefor it is unguided.

IN re claims 2 and 7, see element 25.

In re claim 3, element 1 houses elements which prevent the second end of the assembly from moving traverse to the first axis.

In re claim 4, Halasy-Wimmer et al teaches a tappet 41, 12, 14.

In re claim 5, see element 14.

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In re claim 6, see element 14 as a tappet shaft and element 12 and 7 as the adjuster shaft.

5) Claims 1, 4-5 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Angerfors (6269914).

In re claims 1 and 11-12, Angerfors provides a force transmission device for a disc brake comprising: a first end (near 21, figure 1) engageable with a thrust member (21), and a second end (9) engageable with a friction element (11), wherein the force transmission device is operable along a first axis to move the friction element into engagement with a rotary brake disc in response to a loading from the thrust member, and wherein the force transmission device is restrained proximate the first end from movement transverse to the first axis and the force transmission device is unguided proximate the second end. Please note that there is nothing but the bellows attached to the second end and therefor it is unguided and elements 19, 20 and 1 guide portions of the second end.

In re claims 4-5, see element 16.

In re claims 9-10, see elements 19-20.

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6) Claims 1-8 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Angerfors (6073732).

In re claims 1 and 11-12, Angerfors provides a force transmission device for a disc brake comprising: a first end (near 8, figure 1) engageable with a thrust member, and a second end (23) engageable with a friction element (11), wherein the force transmission device is operable along a first axis to move the friction element into engagement with a rotary brake disc in response to a loading from the thrust member, and wherein the force transmission device is restrained proximate the first end from movement transverse to the first axis and the force transmission device is unguided proximate the second end.

In re claims 2 and 7-8, Angerfors provides a formation (37) on the second end.

In re claim 3, see element 9.

In re claims 4-6, see element 46.

***Claim Rejections - 35 USC § 103***

7) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8) Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halasy-Wimmer et al (5829557) in view of Angerfors (6073732).

Halasy-Wimmer et al lack the teaching of a non-circular formation.

Angerfors teaches the use of a non-circular formation on the backplate and a corresponding non-circular formation on the tappet.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the shape of the formation of Halasy-Wimmer et al with that taught by Angerfors in order to provide a joint which locks and place and prevents relative movement when in contact with each other.

***Conclusion***

9) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamaguchi et al, Bohm et al, Wang, Kapaan et al, and Ortegren et al all provide brake devices with tappets.


10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DK

  
9-23-04